IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Crl.MC.No. 452 of 2007()

AGAINST THE ORDER DATED / / IN CC. 369 /1997 IN LP.119/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER: ACCUSED.

DHARMADAS, AMBALATHINVILA VEEDU,
KURISHUMUTTATHU MURIYIL, VILAPPIL VILLAGE AND
EMPLOYED IN THE B.S.N.L., NEDUMANGADU.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS: STATE & PETITIONER.

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1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. G.SURESH, KOVILVILAKATHU MADOM, CHITTATTINKARA DESOM, ATTINGAL.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 452 of 2007

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Dated this the 21st day of February, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. Going by the number assigned to the prosecution, it was filed as early as in 1997 (C.C.367 of 1997). The same has been transferred to the list of long pending cases and it bears the number L.P. 119 of 1999 now. The law appears to be closing in on the petitioner at last and that explains why the petitioner has rushed to this Court now. The petitioner prays that directions may be issued invoking the extra ordinary inherent jurisdiction under Section 482 Cr.P.C.

2. What is the reason and what are the directions to be issued? The learned counsel for the petitioner submits that if two months time were granted, the amount due shall be paid. The dispute shall be settled and appropriate application for withdrawal or composition shall be filed. The matter may be directed to be kept in abeyance for two months, it is prayed.

3. I am not persuaded to agree that the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. can or ought to be invoked in the facts and circumstances of this case. I can find no merit or grace in the prayer made by the petitioner, who has not appeared before the learned Magistrate from 1999 for the indulgence of further time of two months and to keep the proceedings in abeyance.

4. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy. Superintended of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law

and expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons.

(R. BASANT)
Judge

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